

**THE LOCAL CRIMINAL RULES
OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**



(Effective December 1, 2009)

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LOCAL CRIMINAL RULE 1.1

SCOPE OF THE RULES

A. Title and Citation. These Rules shall be known as the Local Criminal Rules of the United States District Court for the Northern District of Oklahoma. They may be cited as "N.D. LCR ____".

B. Effective Date. These Rules become effective on December 1, 2009.

C. Scope of the Rules. These Rules shall apply in all proceedings in criminal actions.

D. Relationship to Prior Rules; Cases Pending on Effective Date. These Rules supersede all previous rules promulgated by this court or any judge of this court. They shall govern all applicable proceedings brought in this court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

E. Judicial Waiver. A Judge, in any criminal case, may waive any requirement of these Rules when the administration of justice requires such waiver. However, the Judge may not waive any provision of the Federal Rules of Criminal Procedure, unless so authorized by such Rules.

LOCAL CRIMINAL RULE 1.2

APPLICABILITY OF CIVIL RULES

Where appropriate in a criminal context, Civil Local Rules, 1.4 (Professional Conduct Expected), 7.2 (Briefs), 40.1 (Assignment of Cases), 47.1 (Random Selection of Grand and Petit Jurors), 47.2 (Communication with Jurors), 65.1.1 (Security; Sureties), 67.1 (Deposit and Disbursement of Registry Funds), 77.1 (Business Hours), 77.2 (No Ex Parte Communication with Judges), 79.1 (Records Kept by the Court Clerk), 80.1 (Court Reporters), 83.2 (Professional Conduct and Courtroom Decorum), 83.3 (Bar Admission), and 83.4 (Oath of Attorney) are also deemed applicable to criminal cases.

LOCAL CRIMINAL RULE 4.1

WARRANTS AND COMPLAINTS

A. Sealing. Upon written application of the government, search warrants, criminal complaints, arrest warrants, and supporting affidavits may be sealed by order of a judge or magistrate judge. Seal orders shall automatically expire upon return being made on a search warrant or the initial appearance of any named defendant. For good cause shown, a seal order may be extended by the court upon written application of the government.

B. Filing Upon Return. Pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure, the magistrate judge shall deliver the warrant, the return, the inventory and all other papers in connection therewith to the clerk for filing upon return of the warrant.

LOCAL CRIMINAL RULE 5.1

UNITED STATES MAGISTRATE JUDGES

A. General Authorization. Each magistrate judge, including part-time magistrate judges, are authorized to:

1. Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. §3401, and order a presentence investigation report on any such person.
2. Enter bond forfeitures, remissions and judgment on bond forfeitures and exonerations of bonds in proceedings before the magistrate.
3. Conduct removal proceedings and issue warrants of removal in accordance with Rule 40, Federal Rules of Criminal Procedure.
4. Take pleas and impose sentences upon the transfer, under Rule 20 of the Federal Rules of Criminal Procedure, of any information or indictment charging a misdemeanor offense, if the defendant consents in writing to this procedure.
5. Conduct extradition proceedings in accordance with 18 U.S.C. §3184.
6. Conduct proceedings pursuant to letters rogatory in accordance with 28 U.S.C. §1782 as a person hereby appointed by the court.

B. Authorization. Each full-time magistrate judge appointed by this court is authorized to perform any function consistent with the Constitution and Laws of the United States, and may:

1. Conduct hearings, including evidentiary hearings, and submit to a district judge of the court proposed findings of fact and recommendations for the disposition of any motion excepted in 28 U.S.C. §636(1)(A), of applications for post-trial relief by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.
2. Conduct pretrial conferences and enter pretrial orders, upon

request of a district judge of the court.

3. Conduct arraignments in felony criminal cases to the extent of taking "not guilty" pleas upon request of a judge of the court.
4. Conduct and finalize proceedings on petitions under Title III of the Narcotics Addict Rehabilitation Act, 42 U.S.C. §3411 et seq.
5. Receive Grand Jury returns in accordance with Rule 6, Federal Rules of Criminal Procedure.
6. Conduct preliminary hearings on petitions to revoke probationary sentences as requested by a judge of the court.
7. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence for court proceedings.
8. Accept waivers of indictment pursuant to Rule 7(b), Federal Rules of Criminal Procedure.
9. Conduct hearings on petitions to modify, revoke or terminate supervised release pursuant to 18 U.S.C. § 3401(1).

C. Jurisdiction. The jurisdiction of the magistrate judges of the Northern District of Oklahoma shall be district-wide, and any magistrate judge may hold court at any place within the district.

LOCAL CRIMINAL RULE 12.1

MOTIONS, APPLICATIONS AND OBJECTIONS

A. Motions in Writing. Motions in criminal cases shall be in writing and state with particularity the grounds therefor and the relief or order sought.

B. Concise Brief Required. All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies.

C. Notice of Motion Dates. In cases where counsel for defendant has made an appearance of record, notice may be sent by the court clerk, setting a time for the filing of motions and responses thereto.

D. Time of Filing in Absence of Notice. All motions shall be filed with the court clerk within such time as the court may order. Absent such special order, all such motions shall be filed with the clerk within fourteen (14) days after arraignment, and a copy served contemporaneously on the United States Attorney, who shall respond within seven (7) days of filing, unless a different time is fixed by statute or the Federal Rules of Criminal Procedure, or unless the court otherwise orders.

E. Extensions of Time and Continuances. When filing motions for extensions of time or continuances, the original and one copy of each motion shall be filed. The first page of motions for extension of time and motions for continuance shall contain a statement as to whether or not opposing counsel objects to the motion.

F. Proposed Order. A proposed order granting the requested relief shall be submitted to the court clerk when any motion is filed.

G. Reference to Magistrate Judge. Motions filed in criminal cases may be referred to a magistrate judge for handling pursuant to 28 U.S.C. §636.

H. Discovery in Criminal Cases. Under Rule 16 of the Federal Rules of Criminal Procedure, it is expected the parties will complete discovery themselves, and the necessity of filing discovery motions is eliminated except when disputes arise. Discovery orders are hereby eliminated except when irreconcilable disputes arise. The court shall not hear any such motion unless counsel for the movant certifies in writing to the court that the opposing attorneys have conferred in good faith and have been unable to resolve the dispute.

I. Motions to Reconsider or Overrule Actions Taken by District Judges or Magistrate Judges of This District in Connection with Ex Parte Applications. Once a motion or application has been presented and an order entered by a judge or magistrate judge sitting in this district, a request to reconsider or overrule such determination shall be presented to the judge or magistrate judge entering the order, if available. If presented to a different judge or magistrate judge, the movant or applicant shall make known the action taken by the judge or magistrate judge to whom it was previously submitted. This provision is intended to apply to such matters as applications for search warrants, wiretaps, pen registers and other such applications or motions which are made to a judge or magistrate judge without a case having been filed. It is not a means to appeal an order entered in a case, nor is it intended to apply where a case is transferred from one judge to another and a motion to reconsider a prior ruling is made.

J. Stay of Release Pending Appeal of Bond Decision. At the conclusion of a bond hearing pursuant to 18 U.S.C. § 3142 in which a magistrate judge has set a bond which will result in release of a defendant if the conditions of the bond are met, an announcement in open court by the prosecutor that the government intends to appeal the bond to a district judge shall result in an immediate stay of the bond set by the magistrate judge. Such stay shall continue until 5:00 p.m. that day, or in the event the bond is set in open court after 5:00 p.m., until 9:30 a.m. the morning of the following business day, unless the prosecutor shall file a written notice of appeal with the clerk, upon which the stay shall become permanent unless and until it is lifted by a district judge. The notice of appeal may be summary in form and need not be typed, but it shall be followed on or before the close of the business day next following the day the bond was set by the filing of a detailed factual statement, in proper form, setting forth the grounds of appeal.

LOCAL CRIMINAL RULE 17.1.1

PRETRIAL CONFERENCE

A. Conference In Criminal Case. A pretrial conference may be held in criminal cases for the purpose of considering such matters as will promote a fair and expeditious trial. Such conference may, at the direction of the court, be conducted by a magistrate judge.

B. Stipulations and Exhibits. Consistent with the applicable Federal Rules of Criminal Procedure, and whenever it can be done without violating or jeopardizing the constitutional rights of the defendant in any criminal case, stipulations should be made at or prior to the pretrial conference with respect to the undisputed facts and the authenticity of documents. Each instrument which it is anticipated may be offered in evidence by either side (or photostatic copy of such instrument, if agreeable) should be marked with an exhibit number prior to the trial.

LOCAL CRIMINAL RULE 26.1

LISTS OF WITNESSES AND EXHIBITS AT TRIAL

A. List of Witnesses. At the commencement of the trial, counsel shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses they expect to call, including known rebuttal witnesses, in the order they are to be called.

B. List of Trial Exhibits. At the commencement of a trial, the attorneys shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the exhibits they plan to introduce, designated by trial exhibit numbers.

LOCAL CRIMINAL RULE 32.1

GUIDELINE SENTENCING

A. Origin of Procedure. The following procedures shall govern sentencing proceedings under the Sentencing Reform Act of 1984 (Pub.L. 98-473, Title II, ch.II, §§211-239). See, 28 U.S.C. §994 and 18 U.S.C. §3553.

B. Reason for Procedure. To provide adequate time for the United States Probation Office's preparation of the presentence investigation report (PSI), disclosure of the PSI to the parties, the filing of presentence submissions by the parties, and such other and further procedures contemplated by the Sentencing Guidelines and these Rules, the following procedure is implemented.

C. Scheduling of Sentencing. Sentencing proceedings shall be scheduled by each district judge no earlier than ninety-one (91) days following entry of a guilty plea or a verdict of guilty.

D. Pre-Sentencing Procedure. In addition, the following procedure shall be followed prior to the date set for sentencing:

1. Not less than thirty-five (35) days prior to the date set for sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days thereafter, counsel shall communicate to the probation officer any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, or policy statements contained in or omitted from the report. Such communication may in the first instance be oral or written, but if oral, should be confirmed immediately in writing, unless the probation officer forthwith accedes to the oral request or objection by a written supplement to the PSI.
2. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report as may be necessary. The officer, as a representative of the court, may require counsel for both parties to meet at a designated time and place with the officer to discuss unresolved factual and legal issues.

3. Not less than seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections made by counsel which remain unresolved or at issue, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government, that the content of the addendum has been communicated to counsel, and that the addendum fairly states any remaining objections. However, such certification does not relieve the necessity of compliance with Rule 32(a)(1)(A) of the Federal Rules of Criminal Procedure, and at the sentencing hearing defense counsel should be prepared to state on the record that the defendant has personally read the presentence report and has discussed it with counsel.
4. Except with regard to any objection made under subsection (1) that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. However, for good cause shown, the court may allow a new objection to be raised at any time before sentence is imposed. The new objection must be in writing and must not have been made previously. In resolving disputed issues of fact at the sentencing hearing or prior thereto, the court may consider any information it deems reliable presented by the probation officer, the defendant, or the government.
5. The times set forth in this rule may be modified by the court for good cause shown, except that the fourteen (14) day period set forth in subsection (1) may be diminished only with the consent of the defendant.
6. Nothing in this rule requires the disclosure of any portions of the presentence report not otherwise disclosable under Rule 32 of the Federal Rules of Criminal Procedure. The probation officer may recommend to the court a specific sentence within the applicable sentencing guideline table range, or a departure therefrom, if in the probation officer's opinion such is justified under the facts and circumstances presented.
7. The presentence report shall be deemed to have been disclosed (a) when a copy of the report is physically delivered, or (b) one day after the report's availability for inspection is orally communicated, or (c) three days after a copy of the report or notice of its

availability is mailed.

LOCAL CRIMINAL RULE 32.2

PRESENTENCE REPORTS

A. Confidential. The pretrial services, presentence and probation reports maintained by the Probation Office of this court are hereby declared to be confidential and, except as otherwise authorized in this rule, are to be used only as allowed by 18 U.S.C. Section 4205(e), Section 4208(b)(2) and Rule 32 (c)(3), Federal Rules of Criminal Procedure. Correspondence to the United States Probation Office or to the court, relative to a charged defendant, shall also be deemed confidential and shall not be released publicly except upon order of the court.

B. Sentencing Briefs. A copy of any sentencing brief filed by the defendant or government shall be contemporaneously provided to the United States Probation Office.

LOCAL CRIMINAL RULE 32.3

SENTENCING CORRESPONDENCE

_____Attorneys for all parties shall arrange to have written correspondence on behalf of defendants, victims or other interested parties that is submitted for the court's consideration at sentencing sent to the court through the probation office. Upon receipt of such materials, the probation office shall see to it through counsel that all parties have copies of such correspondence prior to sentencing. Any written correspondence sent directly to the court pertinent to a defendant pending sentencing should also be made available to counsel of record prior to sentencing. Any correspondence received by the court or the probation office shall be treated in the same manner as the pre-sentence report and shall not be released to third parties without approval of the court. An inadvertent failure to supply such correspondence to counsel shall not be a basis for resentencing except to correct a manifest injustice.

_____Further, in exceptional situations, the court may determine that certain such correspondence involves security or privacy concerns that require the correspondence to be placed under seal and not be furnished to the parties.

LOCAL CRIMINAL RULE 49.1

FORMAT OF PAPERS FILED

A. General Format of Papers Presented for Filing. All pleadings, motions, and other papers presented for filing shall be on 8 1/2 x 11 inch white paper of good quality, flat and unfolded, and shall be plainly typewritten, printed, or prepared by a clearly legible duplicating or facsimile process without interlineations. The text shall be double-spaced in a font or typeface that contains no more than 12 characters per inch, except for quoted material, which may be single-spaced. Each page shall be numbered consecutively. The text of footnotes may be single-spaced in a font or typeface that contains no more than 12 characters per inch. This rule is not intended to prohibit the appropriate use of scalable fonts. Documents should be two-hole punched in the center of the top margin.

B. Filing Requirement. The original and one copy of all criminal pleadings, motions or orders shall be tendered to the court clerk for filing.

C. Identification of Filing Attorney. All pleadings and motions shall have the signing attorney's firm name, address, telephone number, and state bar membership number (if applicable) typed under the signature line.

LOCAL CRIMINAL RULE 53.1

RESTRICTION OF PHOTOGRAPHY, RADIO, TELEVISION EQUIPMENT, AND TAPE RECORDERS

A. Activity Restricted. The taking of photographs and operation of tape recorders in the courtroom or its environs, and radio or television broadcasting from the courtroom or its environs during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge, whether or not court is actually in session, is prohibited. A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings, and (3) the use of personal computers by attorneys.

B. Definition: "Environs". As used in this Rule, the term "environs" means any place within the Page Belcher United States Post Office and Courthouse Building in Tulsa, Oklahoma, or any other place in this district where federal criminal proceedings are being conducted.

LOCAL CRIMINAL RULE 57.1

RELEASE OF INFORMATION BY ATTORNEYS IN CRIMINAL CASES

A. Release of Information or Opinions. It is the duty of the lawyers or law firm not to release or authorize the release of information or opinions which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which a lawyer or law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

B. Extrajudicial Statements During Investigation. With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated, by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

C. Extrajudicial Statements After Investigation. From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, relating to that matter and concerning:

1. The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status and, if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of any dangers he may present;
2. The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
3. The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

4. The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law ;
5. The possibility of a plea of guilty to the offense charged or a lesser offense;
6. Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

D. Statements Permitted. The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of his or its official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

E. Extrajudicial Statements During Trial. During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from or refer without comment to public records of the court in the case.

F. Special Situations. Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him or her.

LOCAL CRIMINAL RULE 57.2

PROHIBITION OF RELEASE OF INFORMATION BY COURTHOUSE PERSONNEL

All court supporting personnel, including among others marshals, deputy marshals, court clerks, court security officers, court reporters, and employees or subcontractors retained by the court-appointed official reporters, are prohibited from disclosing to any person, without authorization by the court, information relating to pending grand jury proceedings, in camera arguments, and hearings held in chambers or otherwise outside the presence of the public, or information relating to any criminal case that is not part of the public records of the court.

LOCAL CRIMINAL RULE 57.3

SENSATIONAL CASES

A. Special Order. In a widely publicized or sensational criminal case, the court on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the court may deem appropriate for inclusion in such an order. Such a special order might be addressed to some or all of the following subjects:

1. A proscription of extrajudicial statements by participants in the trial (including lawyers, parties, witnesses, jurors and court officials) which might divulge prejudicial matter not of public record in the case.
2. Specific directives regarding the clearing of entrances to and hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial, to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers and others, both in entering and leaving the courtroom or courthouse and during recesses in the trial.
3. A specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations.
4. Sequestration of the jury on motion of either party or by the court, without disclosure of the identity of the movant.
5. Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the court.
6. Insulation of witnesses during the trial.
7. Specific provisions regarding the seating of spectators and representatives of news media, including:

- a. An order that no member of the public or news media representative be at any time permitted within the bar railing;
- b. The allocation of seats to news media representatives in cases where there are an excess of requests, taking into account any pooling arrangement that may have been agreed to among the newsmen.

B. Listing Not Exhaustive. The list of subjects mentioned above is not intended to be exhaustive, but is merely illustrative of some of the matters which might appropriately be dealt with in such a special order.

LOCAL CRIMINAL RULE 57.4

PLAN FOR IMPLEMENTING THE CRIMINAL JUSTICE ACT PURSUANT TO 18 U.S.C. § 3006A

A. Criminal Justice Act Plan. A federal public defender organization, supervised by a federal public defender, shall assist in the administration of the court's Criminal Justice Act Plan and maintain a register of eligible attorneys. The Plan for Implementing the Criminal Justice Act is on file in the court clerk's office.

B. Claims for Compensation. Attorneys filing claims under the provisions of 18 U.S.C. §3006A must submit their claims for compensation and reimbursement to the federal public defender of this court within forty-five (45) days after final disposition of the case by this court. After review of the claim, it will be submitted to the court for approval. If the claim is not timely submitted to the federal public defender, the court may disallow payment.

C. Withdrawal of Appointed Counsel. Prior to sentencing, withdrawal of appointed counsel shall be by leave of this court upon written application. After sentencing, appointed counsel shall continue to represent appellant until relieved by the United States Court of Appeals for the Tenth Circuit.

D. Withdrawal of Retained Counsel. Retained counsel who have entered an appearance on behalf of a criminal defendant will not ordinarily be permitted to withdraw until after arraignment. Withdrawal of retained counsel who have entered an appearance on behalf of a criminal defendant shall be by leave of court upon written application.

LOCAL CRIMINAL RULE 57.5

FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE

A person who is charged with a petty offense as defined in 18 U.S.C. §§1(3), 7(3), and 13, other than an offense requiring a mandatory appearance as shown on the schedule to this rule (on file in the court clerk's office), may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a magistrate judge, and consent to forfeiture of collateral. The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are contained in a written schedule approved by the court and on file with the court clerk.